

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

Initially, the undersigned would like to thank the Examiner for the courtesy and assistance extended on behalf of the Applicants during the telephonic interview conducted with the undersigned.

In the Official Action, the Examiner maintains the rejection of claims 1-4 and 11 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,511,478 to Burnside et al., (hereinafter "Burnside").

In response, claims 1-4 and 11 have been canceled, thereby rendering the rejection thereof moot.

However, new claims 13-16 have been added to further define the patentable invention.

In the previous response filed by Applicants, Applicants argued that Burnside does not disclose or suggest "setting output values and the number of times of output controlled by the intermittent output control unit based on the determined results of the subject tissue determining unit" as recited in claim 1 (and similarly in claims 4 and 11).

In the "Response to Arguments" section of the Final Official Action (at pages 5-6), the Examiner argues that the previous arguments made by Applicants are directed to an intended use and not to a structural difference between the claims and Burnside.

New independent claim 13 recites a positive step of "setting output values and the number of times of the intermittent power based on the determined results" while new independent claim 16 recites "setting the number of times of intermittent output and output values of the high frequency power based on the detected results; and controlling the

generated high frequency power based on the settings" which are not disclosed or suggested in Burnside.

New claims 13-16 are fully supported in the original disclosure. Thus, no new matter has been entered into the disclosure by way of the addition of new claims 13-16. New independent claims 13 and 16 patentably distinguish over the cited references for at least the reasons set forth above and are allowable. Dependent claims 14 and 15 are at least allowable as depending from an allowable base claim (13).

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicants' attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



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